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**HOUSE CORRECTIONS COMMITTEE MEETING**  
**ON REPORTING OF ADMINISTRATIVE SEGREGATION**  
**HB 1084**

- This bill requires TDCJ to report annually the agencies use of administrative segregation.
- The bill outlines 12 sets of criteria that relates to the use of administrative segregation by TDCJ that must be reported to the Executive and Legislative Branches of government.
- The bill also requires that TDCJ report the cost per day of confining an inmate to administrative segregation.
- The LBB has reported that the cost per day of an inmate in the TDCJ is approximately \$51/day. It has been reported by several sources that confining an inmate in solitary confinement can increase the cost of confinement by 45%, or approximately \$73/day in Texas.
- In reading the bill, it is presumed that the reporting criteria is based on only the inmates that are classified by TDCJ as administrative segregation. (See TDCJ Classification Plan)
- What the bill omits is the reporting of inmates that are not classified as administrative segregation but housed nonetheless in administrative segregation cells or under administrative segregation rules, policies and procedures.
- TDCJ has a routine that leaves it to the warden's discretion on each individual unit, to house inmates in administrative segregation cells who are not classified as administrative segregation as defined by the TDCJ administrative segregation policy.

- These inmates are classified as “overflow” and placed in Transient status, and may be held outside of the general population for up to 30 days. These inmates can be and often are held in Administrative Segregation cells and are under the same rules, policies and procedures that govern solitary confinement, where they live in small cells, are fed through a small food slot in the door, and may, depending on staffing, get one hour of recreation a day, which is in a cage about half the size of this conference room. Two days a week, weather permitting, they are allowed outside for recreation, in another cage, with concrete walls reaching almost 30 feet high, and no external views of the world beyond this concrete enclosure.
- This bill also omits the reporting of inmates on death row. Death row inmates are held in solitary confinement and face the same isolated confinement as inmates that are classified as administrative segregation. There are currently almost 300 inmates confined to Texas’s Death Row. The longest serving inmate on Texas’s Death Row has been there since 1977, and his name is Harvey Earvin.

#### **RECOMMENDATIONS TO AMENDING HB 1084**

- 1) That the reporting process outlined in HB 1084 include the reporting of inmates who are not classified as administrative segregation, but are nonetheless housed in administrative cells and subjected to the harsher environment and restrictions as those inmates classified as administrative segregation.
- 2) That the reporting process outlined in HB 1084, include the reporting of inmates that are housed on Death Row as inclusive to those inmates classified as administrative segregation, and that the same reporting requirements be submitted to the respective Executive and Legislative Branches as defined by the bill.

## DEFINITIONS

“Administrative Segregation” is a non-punitive, maximum custody status involving separation of an offender from general population for the purposes of maintaining safety, security, and order among general population offenders and correctional staff within the prison and the public. Administrative segregation is composed of four separate categories:

- (1) Security Detention - An offender in this category requires separation from general population due to being a current escape risk, a threat to the physical safety of other offenders or staff, including volunteers and contract employees, or a threat to the order and security of the prison, as evidenced by repetitive, serious disciplinary violations or due to identification as a confirmed member of a security threat group (STG).
- (2) Pre-Hearing Detention - An offender is placed in pre-hearing detention (PHD) when charged with, or suspected of, a disciplinary violation and (a) the offender is a current escape risk, (b) the offender’s presence in general population would create a threat to the physical safety of other offenders or staff, or (c) it is necessary to separate the offender from general population in order to maintain the integrity of the investigation.
- (3) Protective Custody – An offender placed in protective custody requires maximum custody supervision at all times and the highest degree of protection due to threats of harm by others, or a high likelihood of victimization. The offender requires a higher degree of safety and security in a more controlled environment than general population offenders in order to provide for the offender’s protection. These offenders may be housed in protective custody in order to provide the sufficient degree of safety and security and shall not be recreated, showered, or otherwise placed in the same proximity as offenders in any other custody designation.
- (4) Temporary Detention Between Consecutive Terms of Solitary Confinement - An offender who does not meet the criteria for security detention, PHD, or protective custody may be confined in administrative segregation without notice or hearing only under the following conditions and confinement procedures: (a) the offender has been sentenced to two or more consecutive terms in solitary confinement and (b) the warden or designee determines the offender’s presence in general population would create a threat to the physical safety of other offenders or staff.

“Administrative Segregation Committee (ASC)” is responsible for functioning at the unit level and conducting the initial due process hearings for the assignment of offenders to administrative segregation, to include identification or confirmation of any special conditions of confinement. The ASC also conducts regularly scheduled hearings, dependent upon the offender’s administrative segregation level. All decisions regarding assignment to and release from administrative segregation require final confirmation by the State Classification Committee (SCC).

2. Administrative Segregation Committee (ASC)

a. Composition:

(1) Chairperson

Shall be the warden or security supervisor captain or above.

(2) Member

Shall be an administrative segregation supervisor, lieutenant or above), or the chief of classification.

(3) Additional Member

Shall be a correctional staff member assigned to administrative segregation.

(4) Member

May be a representative from Health Services, as needed.

b. Quorum:

Shall consist of the chairperson and two voting members. Each voting member has one vote, and the majority vote rules. Committee members may vote in any order, with the exception of the chairperson, who shall vote last. Members shall verbally articulate their vote so that it can be reflected appropriately.

c. Authority and Responsibility:

The ASC shall conduct the 10-day due process hearing to determine whether or not an offender shall be assigned to administrative segregation status and conduct regularly scheduled hearings as determined by the offender's administrative segregation level. The ASC is also responsible for identifying or confirming special confinement conditions for administrative segregation offenders. The assignment of offenders to administrative segregation requires final approval by the SCC.

3. State Classification Committee (SCC)

a. Composition:

(1) Chairperson

(2) Vice-Chairperson

## A. Initial Housing Assignment

1. Offenders newly-assigned to a unit shall be classified by the UCC and then assigned to permanent housing on the day of arrival. Prison offenders who are not classified on the day of their arrival are assigned to transient housing until classified by the UCC, as outlined in AD-04.63, "Transient Status Offenders," and the TDCJ *Unit Classification Procedures Manual*, Number 2.00, "Custody Designations," Attachment C. Transfer offenders still undergoing intake processing shall be classified within 30 calendar days, and state jail offenders undergoing intake processing shall be classified within 10 working days.
2. Transfer facility offenders who require transfer for reasons of safety, security, or medical risk are outlined in the TDCJ *Unit Classification Procedures Manual*, Number 4.14, "Screening Criteria for Transfer Offenders."
3. Upon classification by the UCC, if a bed in the offender's assigned custody designation is not available or the custody designation itself is not available at the unit, the offender shall be assigned by the UCC to temporary housing out of the offender's assigned custody designation, such as transient or other designated housing. The offender shall be assigned to temporary housing until a bed in the appropriate custody designation becomes available or the offender is transferred to a unit with available beds in the appropriate custody designation. Offenders shall not remain in temporary housing for more than 30 calendar days.
4. All documents relative to the offender's treatment needs and requirements shall be reviewed, as appropriate, by designated treatment professional staff in order to develop the offender's ITP. The ITP shall identify the specifics of the offender's treatment or program regimen and shall be maintained and updated by designated unit staff, as required.
5. Offenders newly-assigned to a unit shall receive unit orientation within one week of arrival, unless exceptional circumstances exist, as outlined in the TDCJ *Unit Classification Procedures Manual*, Number 5.00, "Orientation Procedures."

## B. Custody Assignment

1. Each offender is assigned to a custody designation appropriate for the offender's needs and requirements throughout incarceration.
2. Custody assignment shall be primarily influenced by institutional adjustment factors. However, because the TDCJ has minimal opportunity to observe institutional adjustment immediately after an offender's arrival, factors such as prior criminal record, prior institutional adjustment, current offense of record, and sentence length shall be considered in making initial classification decisions regarding custody designation.

# The High Cost of Solitary Confinement

In the United States today, at least 80,000 prisoners are in some form of isolated confinement,<sup>1</sup> including some 25,000 in supermax prisons.<sup>2</sup> Solitary confinement goes by many names, including administrative segregation, disciplinary confinement, security housing, and restricted housing, but it normally consists of 22- to 24-hour lockdown in a small cell. Terms in solitary confinement often extend to months, years, or decades.

Solitary confinement has been found to cause serious psychological damage. Studies have also shown that it increases recidivism and fails to reduce prison violence.<sup>1</sup>

Solitary confinement is also expensive, in large part because of added staffing costs. One study estimated that the average per-cell cost of housing an inmate in a supermax prison is \$75,000, as opposed to \$25,000 for an inmate in the general population.<sup>3</sup>

While many states do not publish data on the costs of isolated confinement in their prisons, a survey of available figures clearly reveals the high price of solitary.

### California

With over 1,100 inmates in the Security Housing Unit (SHU) and 400 more in the Administrative Segregation Unit (ASU), Pelican Bay State Prison has an yearly budget of \$180 million. For 2010-2011, the annual costs per inmate were as follows:

- \$70,641 per SHU inmate
- \$77,740 per ASU inmate
- \$58,324 per general population inmate<sup>4</sup>

According to the California Department of Corrections and Rehabilitation, the average length of time spent in the Pelican Bay SHU is 6.8 years.<sup>5</sup> This means the total cost of holding each inmate in the SHU is on average \$480,358. Housing the same inmate in the general population would save \$83,733.

Some 2,200 additional prisoners are housed in SHUs at Corcoran State Prison and CCI Calipatria.<sup>5</sup> This brings the statewide total in SHU confinement to approximately 3,700. Assuming costs are consistent across state prisons, at \$12,317 more per inmate, the added cost of SHU confinement comes to \$45.6 million annually.

In addition, a 2009 report from the California Office of the Inspector General estimated "the annual correctional staff cost of a standard ASU bed to be at least \$14,600 more than the equivalent general population bed. For the 8,878 ASU

beds statewide, this additional cost equates to nearly \$130 million a year."<sup>6</sup>

Taking in the costs of SHU and ASU combined, solitary confinement costs California taxpayers an additional \$175 million a year.

### Illinois

Calculations carried out by reporters at the *Bellefonte News-Democrat* found that it costs \$92,000 per year to hold an inmate in solitary confinement at Illinois's Tamms Correctional Center. The figure is two to three times higher than the cost of keeping an inmate at the state's other maximum-security prisons.<sup>7</sup>

According to the 2009 Annual Report of the Illinois Department of Corrections, Tamms held 417 inmates, 243 of whom were in solitary confinement. In 2009, total expenditures at Tamms amounted to over \$28 million. By comparison, Taylorville Correctional Center spent \$25 million with nearly three times the population of Tamms (1201). In 2010, following a reduction of Tamms's supermax population (from 243 to 208), costs fell to \$25 million.<sup>8</sup>

### Colorado

According to figures compiled by the ACLU of Colorado, in 2010 it cost \$14,933 to \$21,485 more per inmate, per year to hold someone in administrative segregation in the state's supermax prisons than in a regular maximum security prison (\$42,642-\$48,403 vs. \$26,918 to \$27,709).<sup>9</sup>

With 1,400 prisoners in administrative segregation statewide,<sup>9</sup> the additional annual cost of solitary confinement in Colorado that year exceeded \$20 million.

### Other States

In 2003, the cost of housing a level 5 Administrative Maximum, or "supermax," inmate at Ohio State Penitentiary was \$149 daily and \$54,385 a year. The cost of housing a maximum-security inmate was \$101 a day and \$26,865 a year. For general population inmates the cost was \$63 a day or \$22,995 a year--less than half the cost of an Administrative Segregation inmate.<sup>2</sup>

In 2002, the cost of housing an inmate in the general population in Texas was \$42.46 per day. The cost of housing a prisoner in administrative segregation was 45 percent higher, at \$61.63 per day.<sup>10</sup> At the time, Texas held approximately 9,000 prisoners in administrative segregation, with an additional yearly cost to taxpayers of almost \$63 million.

mate in the supermax Maryland Correctional Adjustment Center than in the general population.<sup>11</sup>

## Federal Prisons

The Federal Bureau of Prisons holds more than 11,000 prisoners in some form of segregation, including about 400 in its supermax prison, the U.S. Penitentiary Administrative Maximum, or ADX, in Florence, Colorado.<sup>12</sup> The BOP says it does not know the cost of holding an inmate in ADX.

A Freedom of Information Act request from Solitary Watch for the annual cost of housing a prisoner at ADX yielded the following response: "The BOP does not collect separate or specific data held in Administrative custody or at USP Admin Max Florence. These costs are included in the general per capita costs for the applicable facility. Since the prisons at Florence make up a Federal Correctional Complex [which also has maximum, medium, and minimum security inmates], the operating costs are based on all complex operations, shared services and facility expenses at this site."

## Construction Costs

In addition to higher operating costs, supermax prisons have consistently higher construction costs than other types of facilities—two to three times higher, according to one report, than a maximum-security prison.<sup>2</sup>

Pelican Bay State Prison was built in 1989 at a cost of \$230 million<sup>13</sup> to hold 1056 inmates,<sup>14</sup> or, \$217,803 per cell.

a cost of \$21 million (in 1989 dollars) to house 288 inmates, or, a cost of over \$72,000 per bed.<sup>15</sup>

Wisconsin's Boscobel supermax facility was built to house 500 inmates at a cost of \$47.5 million (in 1990 dollars), or over \$95,000 per bed.<sup>15</sup>

The federal supermax, ADX Florence, was completed in 1994 at a cost of \$60 million—over \$122,000 for each of its 490 beds.<sup>16</sup>

Tamms Correctional Center cost \$73 million to build in 1998 and was designed to hold 500 inmates. This gives a construction price tag of approximately \$146,000 per bed.<sup>17</sup>

Ohio State Penitentiary, likewise constructed to house 500 supermax inmates, cost taxpayers \$50 million to build, or \$100,000 per bed.<sup>17</sup>

## Reforms Lead to Savings

Spurred by litigation, legislation, leadership, and local activism, a handful of states have recently taken steps to reduce the number of prisoners they hold in solitary—a move that has clear fiscal benefits.

In recent years, Mississippi has reduced the number of prisoners it holds in solitary from 1,000 to about 150, and closed down its supermax unit. According to the ACLU, the reforms are saving Mississippi's taxpayers an estimated \$8 million a year.<sup>18</sup>

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